

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ELLIOTT GUNTARP

PLAINTIFF

VS.

CIVIL ACTION NO. 1:05CV177-D-A

**ITAWAMBA COUNTY SHERIFF'S DEPARTMENT
and ITAWAMBA COUNTY, MISSISSIPPI, SHERIFF
PHILLIP CRANE, in his individual capacity, Jail
Administrator KENNETH KNIGHT, in his individual
capacity, and PATRICK GRAHAM**

DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants Itawamba County Sheriff's Department and Itawamba County, Mississippi, Sheriff Phillip Crane, in his individual capacity, and Jail Administrator Kenneth Knight, in his individual capacity, and move this Court for the entry of Summary Judgment pursuant to Federal Rule of Civil Procedure 56. Defendants for cause state as follows:

1.

No facts exist to establish the required elements of Plaintiff's constitutional claims.

2.

The doctrine of qualified immunity bars Plaintiff's constitutional claims made against Defendants Crane and Knight in their individual capacities.

3.

The Mississippi Tort Claims Act bars Plaintiff's remaining state law claims.

In support of this Motion, these Defendants rely on their Memorandum Brief served simultaneously herewith, along with excerpts from Elliott Guntharp's deposition, attached and incorporated as Exhibit "A", Kent Guntharp's deposition, attached and incorporated as Exhibit

“B”, Phyllis Guntharp’s deposition, attached and incorporated as Exhibit “C”, Tabatha Hallmark’s deposition, attached and incorporated as Exhibit “D”, Judy Guntharp’s deposition, attached and incorporated as Exhibit “E”, Michael George’s deposition, attached and incorporated as Exhibit “F”, Patrick Graham’s deposition, attached and incorporated as Exhibit “G”, Kenneth Knight’s deposition, attached and incorporated as Exhibit “H”, and Joey Miller’s deposition, attached and incorporated as Exhibit “I”.

WHEREFORE, these Defendants move for the entry of Summary Judgment and the dismissal of this case with prejudice on the above grounds and for any and all reasons this Court deems appropriate.

This the 1st day of November, 2006.

Respectfully submitted,

s/Christopher J. Latimer (MSB 101549)
Berkley N. Huskison (MSB 9582)
*Attorneys for Itawamba County Sheriff's
Department, Itawamba County,
Mississippi, Sheriff Phillip Crane, in his
Individual Capacity, and Jail Administrator
Kenneth Knight, in his Individual Capacity*

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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This the 1st day of November, 2006.

s/Christopher J. Latimer